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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,785	01/10/2006	Andrea Seger	SEGE3004//FJD	5731
7590 Bacon & Thomas 4th Floor 625 Slaters Lane Alexandria, VA 22314-1176			EXAMINER SONG, DAEHO D	
			ART UNIT 2175	PAPER NUMBER
			MAIL DATE 06/01/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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Technology Center 2100

BACON & THOMAS  
4<sup>TH</sup> Floor  
625 Slaters Lane  
Alexandria VA 22314

In re Application of:  
SEGER, Andrea et al.  
Application No. 10/523,785  
Filed: February 9, 2005  
For: METHOD FOR OPERATING A FIELD  
DEVICE USING A BROWSER

DECISION ON PETITION  
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed April 22, 2010 to withdraw the finality of the Office action mailed January 22, 2010.

The petition is **GRANTED**.

**BACKGROUND**

"6) On November 2, 2009, applicants filed a further RCE and as RESPONSE by which claim 10 was amended to include the subject matter of claim 13 and to further amend claim 10 to define over the Forney et al. reference.

"7) On January 22, 2010 the examiner issued a first Office Action in the further REC application, finally rejecting claims 10, 12 and 14-18, and to reject claim 10 under 35 USC 112, second paragraph as indefinite."

**RULES AND PROCEDURES**

MPEP § 706.07(b) states in part that:

The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of

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record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

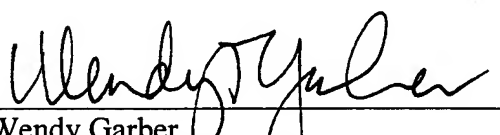
### DECISION

In the Amendment filed November 2, 2009, claim 10 was substantially amended prompting the examiner to establish a new grounds of rejection in the Office action mailed January 22, 2010, the action immediately subsequent to the filing of the RCE. Specifically, the new grounds of rejection of claim 10 was under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The new grounds of rejection and at least the newly added limitation "in accordance with a change in the XML file or the XSL file" demonstrate that claims 10 can not be "drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR § 1.114, [nor] (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR § 1.114." Therefore, the first action finality of the Office action mailed January 22, 2010 does not meet the conditions set forth in MPEP § 706.07(b).

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Therefore, the petition is GRANTED, and the finality of the Office action mailed January 22, 2010 has been withdrawn.

Furthermore, the Amendment filed April 22, 2010 will be treated as a reply filed under 37 C.F.R. § 1.111(b), and entered as a matter of right. The examiner of record will continue examination based on the entry of this amendment.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

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Wendy Garber  
Director, Technology Center 2100